

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:13-cr-00296-RJC

USA

vs.

BRANDON TATE

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ORDER

THIS MATTER is before the Court upon motion of the defendant requesting that the Court reduce his sentence based on an issue argued at the sentencing hearing. (Doc. No. 29).

The defendant seeks a ruling that USSG §4A1.1(e) is not applicable to a number of offenses that he claims received a consolidated sentence. (Id. at 1). The motion fails, however, to state any legal basis for altering the oral pronouncement of the sentence after the fourteen-day deadline in Fed. R. Crim. P. 35(a) had passed to seek correction of arithmetical, technical, or other clear error.¹ Counsel states that he received a certified copy of the state court judgment the day before filing the motion, (Id.); however, the Government submitted a certified copy of the same judgment at the sentencing hearing, (Gov't Ex. 1). Therefore, the Court lacks jurisdiction to consider the defendant's request to modify his sentence. United States v. Shank, 395 F.3d 466, 470-471 (4th Cir. 2005).

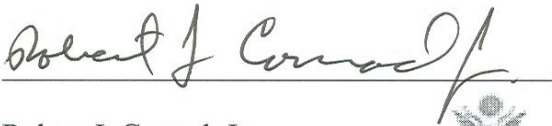
Even if the Court had jurisdiction to consider the merits of the defendant's motion, the Court would not impose a different sentence. The issue was fully argued at the sentencing hearing, the Court resolved against the defendant's position, and the case is on appeal.

¹ The Court sentenced the defendant on March 25, 2015, but the motion was not filed until April 21, 2015.

IT IS, THEREFORE, ORDERED that the defendant's motion (Doc. No. 29) is
DENIED.

The Clerk is directed to certify copies of this order to the defendant, counsel for the defendant, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: July 29, 2015

A handwritten signature in black ink, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

